

1 **S&O**

2 J. Stephen Peek, Esq. (1758)
3 Bryce K. Kunimoto, Esq. (7781)
4 Robert J. Cassity, Esq. (9779)
5 HOLLAND & HART LLP
6 9555 Hillwood Drive, 2nd Floor
7 Las Vegas, Nevada 89134
8 Tel: (702) 669-4600
9 Fax: (702) 669-4650
10 speek@hollandhart.com
11 bkunimoto@hollandhart.com
12 bcassity@hollandhart.com

13
14 *Attorneys for Defendants Aruze Gaming*
15 *America and Kazuo Okada*

16 Jeffrey S. Love, Esq. (*pro hac vice*)
17 Kristin L. Cleveland, Esq. (*pro hac vice*)
18 KLARQUIST SPARKMAN, LLP
19 One World Trade Center
20 121 S.W. Salmon Street
21 Suite 1600
22 Portland, Oregon 97204
23 jeffrey.love@klarquist.com
kristin.cleveland@klarquist.com

24 *Attorneys for Defendant Aruze Gaming*
25 *America, Inc*

26 **UNITED STATES DISTRICT COURT**

27 **DISTRICT OF NEVADA**

28 UNIVERSAL ENTERTAINMENT
17 CORPORATION, a Japanese corporation

18 Plaintiff,

19 v.

20 ARUZE GAMING AMERICA, INC., a Nevada
21 corporation, KAZUO OKADA, an individual

22 Defendants.

23 CASE NO.: 2:18-00585-RFB-GWF

24 **STIPULATION AND ORDER
25 REGARDING PROTOCOL
26 GOVERNING PRODUCTION OF
27 ELECTRONICALLY STORED
28 INFORMATION**

29 IT IS HERBY STIPULATED AND AGREED, by and between Plaintiff Universal
30 Entertainment Corporation and Defendants Aruze Gaming America, Inc. and Kazuo Okada,
31 through their respective counsel of record, that the production of Electronically Stored
32 Information (“ESI”) shall be governed by the following protocol. The Parties are in possession
33

1 of ESI that may be produced in this matter and the Court hereby orders as follows regarding the
2 production of ESI.

3 1. **Definitions:** In this Stipulation, the following terms have the following
4 meanings:

5 a. “ESI” means Electronically Stored Information, including, but not limited to,
6 email, attachments to email, other electronic documents such as word processing,
7 spreadsheet, PowerPoint, HTML, and text files and any other files stored in an
8 electronic format.

9 b. “Metadata” means: (i) information embedded in a Native Format file that is not
10 ordinarily viewable or printable from the application that generated, edited or
11 modified such Native Format file; and (ii) information generated automatically
12 by the operation of a computer or other information technology system when a
13 Native Format file is created, modified, transmitted, deleted or otherwise
14 manipulated by a user of such system. Metadata is a subset of ESI.

15 c. “Native Format” means ESI in the electronic format of the application in which
16 such ESI is normally created, viewed and/or modified.

17 2. **Scope:** The Parties agree that each producing Party is best situated to evaluate
18 the procedures, methodologies, and technologies appropriate for preservation, collection, and
19 review of their own ESI. Accordingly, this Stipulation shall govern only the actual production
20 of ESI and shall in no way affect the Parties’ respective rights and obligations concerning the
21 preservation, collection, and review of ESI. All Parties preserve their attorney-client privileges
22 and other privileges, and there is no intent by this Stipulation, or the production of documents
23 pursuant to this Stipulation, to in any way waive or weaken these privileges. Nothing in this
24 Stipulation shall limit the Parties’ respective rights and obligations concerning confidential,
25 proprietary or private information, with respect to which they may make such agreements or
26 Stipulations as they see fit, subject to applicable law. All documents produced pursuant to this
27 Stipulation are fully protected and covered by the Parties’ confidentiality agreements, and

1 orders of the Court, as well as any clawback agreements, and protective order(s) of the Court
2 effectuating the same.

3 3. **ESI Production Format:** ESI shall be produced primarily as single-page,
4 uniquely and sequentially numbered CCITT Group IV TIFF (black and white) image files not
5 less than 300 dpi. Only after receiving the advance permission of the receiving Party, the
6 following additional formats may also be acceptable to represent particular ESI or documents:
7 JPEG, JPEG2000, GIF, PNG, single-image TIFF, and BMP. The images shall be accompanied
8 by searchable text files containing all extracted text on a document basis, or if extracted text is
9 unavailable (e.g., image PDF files), then searchable text generated using Optical Character
10 Recognition (“OCR”) will be provided. The text files shall be named to match the endorsed
11 number assigned to the image of the first page of the document. The images and text files shall
12 also be accompanied by a cross-reference load file. The producing Party shall also provide a
13 data load file (“Data Load File”) that shall contain the agreed-upon coding and/or Metadata, as
14 reasonably available, associated with each field as specified in Schedule A hereto. Data Load
15 Files will be provided in Concordance DAT file format, with field name headers and standard
16 Concordance delimiters. The Image Load File will be provided in the OPT and LFP file
17 formats.

18 4. **Email Production Format:** Email, together with all attachments, shall be
19 produced as follows:

- 20 a. The Parties will provide the following Metadata fields for each email in the
21 index load file (DAT file), to the extent that they are available for each email:
22 SendFrom (“From”), SendTo (“To”), CopyTo (“CC”), BlindCopyTo
23 (“BCC”), DateSent, TimeSent, and Subject.
- 24 b. The Parties will provide single-page TIFF images representing the pages of
25 emails that would have been viewable in the ordinary course of business
26 prior to collection. Each such TIFF image will show the endorsed document
27 number and confidentiality status for each such email page.

c. The Parties will provide an index load file for the items per ¶ 4(a) above, which will also include the following data items: FIRSTBATES, LASTBATES, BEGATTACH, ENDATTACH, and the original source/custodian of the email; and the source device.

5 5. **Paper Production Format:** Documents stored in paper form in the ordinary
6 course of business shall be converted to electronic form and produced as single-page, uniquely
7 and sequentially numbered CCITT Group IV TIFF image files not less than 300 dpi resolution
8 to enable the generation of searchable text using OCR. The images shall be accompanied by
9 text files containing the OCR-generated searchable text. The text files shall be named to match
10 the endorsed number assigned to the image of the first page of the document. The images shall
11 also be accompanied by an image cross-reference load file, providing the beginning and ending
12 endorsed number of each document and the number of pages it comprises. The producing Party
13 shall also provide a Data Load File corresponding to the CCITT Group IV TIFF image files that
14 shall contain the Metadata fields defined in Schedule A hereto.

15 6. **Bates Numbering for TIFF Images:** Each page of a document produced in
16 TIFF file format shall be endorsed with a legible, unique numeric identifier (“Bates Number”)
17 not less than eight (8) digits (with zero-padding) electronically “burned” onto the image at a
18 place on the document that does not obscure, conceal, or interfere with any information
19 originally appearing on the document. The Bates Number for each document shall be created so
20 as to identify the producing Party or non-party and the unique document number (e.g.,
21 “ABC00000001”).

22 7. **Document Unitization:** If a paper document is more than one page, to the
23 extent possible, the unitization of the document and any attachments and/or affixed notes shall
24 be maintained as it existed when collected by the Parties. If unitization cannot be maintained,
25 the original unitization shall be documented in a load file or otherwise electronically tracked.
26 For ESI, all unitization should be defined within the Data Load File including the designation of
27 parent/attachments both for email and attachments.

1 8. **Color Documents:** If the receiving Party believes that a document is not legible
2 or where the absence of color materially affects the document, the receiving Party may request
3 that the document be produced in color, and the Parties shall meet and confer as to the
4 possibility of rendering the document in color format.

5 9. **Production of ESI in Native Format:** Other than as specifically set forth
6 below, a producing Party need not produce documents in Native Format. Any Native Format
7 files that are produced should be produced with a link in the “NativeFile” Metadata field, along
8 with all extracted text and Metadata fields set forth in Schedule A below. No document
9 produced in Native Format shall be intentionally manipulated to change the appearance or
10 substance of the document prior to its collection or production. All redactions of ESI will be
11 performed on a TIFF-imaged version of the document only, and Native Format files and
12 extracted text will not be provided. Redactions on grounds of attorney-client privilege or
13 attorney work product shall be logged on a privilege log in the form agreed to by the Parties.
14 Redacted ESI will be OCRed to include all visible (non-redacted) text. Any Metadata fields
15 that contain information subject to redaction shall not be produced, however, the remainder of
16 the Metadata fields for that document that are not subject to redaction will be produced.
17 Notwithstanding the foregoing, the Parties hereby reserve their rights to request production of
18 documents in Native Format in the future should the need to do so arise. Should such need
19 arise, the Parties will meet and confer concerning production of any discovery materials in
20 Native Format. If the Parties are not able to reach agreement concerning the production of
21 discovery materials in Native Format, they shall promptly bring such matter to the Court’s
22 attention.

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Schedule A

Production Labels	Field	Description	Required for:
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1	FIRSTBATES	First Bates Number of document	All
2	LASTBATES	Last Bates Number of document	All
3	BEGATTACH	First Bates Number of attachment range	All
4	ENDATTACH	Last Bates Number of attachment range	All
5	PAGES	Number of pages	All
6	CUSTODIAN	Mailbox where the email resided; individual from whom the documents originated	All
7	ALLCUSTODIANS	For de-duplicated documents; all individuals who possessed a copy of the document	All
8	FROM	Sender	All
9	TO	Recipient(s)	All
10	CC	Carbon copy recipient(s)	All
11	BCC	Blind carbon copy recipient(s)	All
12	SUBJECT	Subject of the email	Email only
13	DATESENT	Date the email was sent	Email only
14	TIMESENT	Time the email was sent; must be a separate field and cannot be combined with the DATESENT field	Email only
15	FILENAME	File name	Attachments/loose files
16	FILE_EXTEN	The file extension of the email or attachment; will vary depending on the email format	Attachments/loose files
17	FILE_SIZE	Size of file	Attachments/loose files
18	DATE_MOD	Empty for email; attachment/native file metadata	Attachments/loose files
19	NATIVEFILE	Link to file produced in Native Format	Any documents produced in Native Format
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26 10. **Spreadsheets**: Spreadsheets (e.g., Excel and Excel-type files) shall be produced
 27 in their Native Format with a link in the NativeFile Metadata field, along with extracted text.

1 For extracted text, the producing Party may need to unhide all rows and column depending on
 2 what method is being used to extract text.

3 11. **Presentation/Slides:** Presentations and slides (e.g., PowerPoint and PowerPoint-
 4 type files) shall be produced in their Native Format with a link in the NativeFile Metadata field,
 5 along with extracted text. For extracted text, the producing Party may need to unhide all slides
 6 and speaker notes depending on what method is being used to extract text.

7 12. **Media Files:** All non-privileged video, animation, or audio files shall be
 8 produced in their Native Format. All video, animation or audio files that a producing Party in
 9 good faith believes contains material protected by either the attorney-client privilege or attorney
 10 work product doctrine must be identified on a privilege log in the form agreed to by the Parties.

11 13. **Other File Types:** In some cases it may be necessary to produce documents in
 12 their Native Format because such documents cannot be rendered into TIFF format. In other
 13 cases, it may be necessary to alter a native file to create a format suitable for production
 14 purposes (e.g., Lotus Notes objects, compiled web pages, etc.). If alteration of a Native Format
 15 file is necessary to create a format suitable for production, the Parties will discuss and agree
 16 upon an acceptable format.

17 14. **Specific Requests for Production of ESI in Native Format:** Other than the
 18 specific file types described above, after initial production of ESI in TIFF format, a Party must
 19 make a showing of good cause demonstrating particularized need for production of other ESI in
 20 its Native Format. In the event that a receiving Party requests production of Native Format ESI,
 21 the Parties shall negotiate in good faith about the timing, cost, and method of such production.

22 15. **De-Duplication of Non-Emails:** All non-email documents will be De-
 23 duplicated across Custodians prior to production, with an “AllCustodians” Metadata field
 24 identifying all the custodians who possessed copies of the documents. “De-duplicated across
 25 Custodians” means that exact duplicates of documents (where the document family is identical),
 26 as identified by MD5 hash value, will not be produced.

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1 16. De-Duplication of Emails: For emails, in addition to de-duplication across
2 custodians, thread de-duplication may be applied prior to production. Thread de-duplication
3 allows emails that are wholly contained in a later, surviving email, with all of the recipients and
4 attachments contained, to be identified and suppressed from production. An email is only
5 removed from production if 100% of the message body is contained, all addresses are included,
6 and all attachments are included in a later email that is produced. When the latest version of an
7 email thread is considered privileged and withheld from production, the Parties are obligated to
8 “re-thread” the most complete non-privileged earlier emails in the thread and produce such non-
9 privileged emails.

10 17. De-Nisting of ESI: The Parties may remove operating system files and program
11 files with the assistance of their respective Information Technology vendors prior to conducting
12 searches of such data in accordance with the National Software Reference Library De-Nisting
13 Process.

14 18. Translations: To the extent that translations are prepared for litigation and
15 produced for use as evidence, they need not be produced in Native Format. Instead, each
16 translation will be produced as a TIFF rendering of the document, accompanied by a searchable
17 TXT file. In addition, each translated TIFF rendering will be named in a format that includes
18 the Bates Number matching the last page of the untranslated document corresponding with the
19 translated TIFF rendering, plus a “T” at the end of the Bates number indicating that it is a
20 translation, and a numeric suffix indicating the page numbers of the translation (e.g.,
21 “ABC00000001T_0001,” 0002, 0003, etc.). This provision applies solely to the production, if
22 any, of translations of foreign language documents, where such translations are prepared for
23 purposes of the litigation. It does not address whether the parties have any duties or obligations
24 to make and produce such translations, and the parties reserve their rights regarding such
25 translations. By contrast, to the extent that the parties are in possession or control of translations
26 prepared in the ordinary course of business of relevant and responsive, non-privileged
27 documents, the parties will produce such translations (including all agreed-upon metadata
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1 fields) pursuant to the format and requirements set forth in the other provisions of this
2 Stipulation.

3 19. **Placeholders**: In the event that any production contains documents that could
4 not be rendered to TIFF, the producing Party will insert a numbered TIFF format placeholder
5 page as a replacement for, and to identify, any document that could not be rendered to TIFF or
6 produced for some other reason. The placeholder page(s) will bear the text "Document Cannot
7 Be Rendered." Any file produced in its Native Format will be produced with an associated
8 TIFF format placeholder with the text "Document Produced in Native Format."

9 20. **Production Media**: The Parties will produce document images, Native Format
10 files, load files, and Metadata as encrypted data on DVD-ROM optical discs for Windows-
11 compatible personal computers, Windows-compatible external hard drive employing the USB
12 2.0 interface, via a File Transfer Site (if the size is under 5GB compressed), or other mutually
13 agreeable media. The Parties will meet and confer concerning the appropriate process for doing
14 so.

15 21. **Original Documents**: Nothing in this Stipulation shall eliminate or alter any
16 Party's obligation to retain Native Format copies, including associated Metadata, of all ESI
17 produced in this matter and original hard copy documents for all paper documents produced in
18 the matter.

19 22. **Third-Party Software**: To the extent that documents produced pursuant to this
20 Stipulation cannot be rendered or viewed without the use of proprietary third-party software, the
21 Parties shall meet and confer to minimize any expense or burden associated with the production
22 of such documents in an acceptable format, including issues as may arise with respect to
23 obtaining access to any such software and operating manuals which are the property of a third
24 party.

25 23. **Processing Specifications**: The Parties shall use the following specifications
26 when converting ESI from its Native Format into TIFF image files prior to its production:

- 1 a. For Excel or other spreadsheet files that must be produced in TIFF image
- 2 format for redactions, hidden columns and rows shall be made visible.
- 3 b. PowerPoint documents must be processed with hidden slides and speaker's
- 4 notes unhidden.
- 5 c. To the extent documents in a foreign language are produced, processing of
- 6 such documents shall be Unicode-compliant.
- 7 d. To the extent any document exists in more than one language, the document
- 8 shall be produced in all languages.

9 The foregoing provisions do not in any way limit a producing Party's ability to make
10 any necessary redactions, whether for privilege, confidentiality, privacy and/or compliance with
11 foreign data protection and privacy laws.

12 24. **Production Specifications:** All documents will be produced according to the
13 following Production Specifications. Parties agree to exchange "sample" productions and load
14 files at least one week in advance of their first production of documents subject to this protocol.

15 a. **Data Load Files:**

16 i. Concordance (DAT, OPT, LFP):

17 1. Version 10 for Unicode support.

18 ii. DAT file:

19 1. UTF-8 encoded Unicode to support foreign language.

20 iii. Fields available in the DAT file (with standard Concordance
21 delimiters):

22 1. See Schedule A for list of fields.

23 2. Translations to include only FIRSTBATES, LASTBATES,
24 BEGATTACH, ENDATTACH.

25 iv. Text files will not be provided within the DAT file.

26 b. **TIFF Specifications:**

27 i. Black and white.

- ii. Single page.
- iii. CCITT Group IV FAX Compression.
- iv. 300 dots per inch.

c. **Native Format Specifications:** Prior to production, Native Format documents will be renamed with their appropriate Bates Numbers (as assigned to the corresponding placeholder) and confidentiality designation in the filename (e.g., “Bates Number_confidentiality designation.file extension”), and a corresponding TIFF format placeholder bearing the text “Document Produced in Native Format.”

d. **Endorsements:**

- i. Printed with a font size comparable to 10-point Arial.
- ii. Right footer: Bates Number.
- iii. Left Footer: Confidentiality legend.
 - 1. Legend values:
 - a. HIGHLY CONFIDENTIAL – PURSUANT TO THE PROTECTIVE ORDER
 - b. CONFIDENTIAL
- iv. Redactions: White redactions with a border.
 - 1. Redaction types:
 - a. Privilege.
 - b. Privacy.
 - c. Personnel issues.
 - d. Regulatory compliance issues.
 - e. Trade secrets and confidential information that would be protected under the Nevada Uniform Trade Secrets Act.
 - f. Other recognized categories of protection.

2. Redaction labels:

- a. REDACTED – PRIVILEGE
- b. REDACTED – PRIVACY
- c. REDACTED – PERSONNEL
- d. REDACTED – COMPLIANCE

e. **Text Files:**

- i. One Unicode text file will be provided per document (named according to the beginning Bates Number for each document).
- ii. Text will be extracted from Native Format files when possible.
- iii. Text will be provided with scanned documents where such text can be obtained through OCR.
- iv. Text files will not contain page breaks.
- v. Placeholders (with the exception of placeholders for files produced in Native Format) will receive a text file matching the placeholder text.
- vi. Text files for redacted documents will be created from the redacted image.
- vii. OCR text will be provided for documents where text cannot be extracted.
- viii. Text files will support foreign characters for upload into Concordance

f. **Sorting:**

- i. Keep source/attachments (families) together.
- ii. Group by custodian.
- iii. Sort 1: Custodian.
- iv. Sort 2: Default sort order.

g. **Data Organization:**

- i. Images: Approximately 1000 TIFF files per folder; no more than 1000 subfolders per folder; root folder named “Images.”
- ii. Text files: Will reside in a separate folder named “Full_Text.”
- iii. Native Format files: Will reside in a separate folder named “Natives.”
- iv. Data Load Files: Will reside in the root folder.

7 25. **Reservation of Rights:** Nothing contained herein, is intended to create a
8 precedent for, or to constitute a waiver or relinquishment of, any Party's objections or
9 arguments pertaining to any potential future ESI production(s). Nothing contained herein
10 constitutes a waiver of any Party's rights or obligations under any law, including but not limited
11 to laws regarding any matter or information that is or may be claimed to be privileged,
12 confidential, proprietary, or otherwise personal or private.

13 26. **Modification:** Any agreement between the Parties to depart from the
14 requirements of this Stipulation as between those Parties must be memorialized in writing,
15 signed by counsel for all Parties to the agreement, and promptly furnished to all Parties via
16 email and U.S. mail. Such agreement does not relieve those Parties of their obligation to other
17 Parties and to the Court pursuant to this Stipulation.

18 27. **Procedure for Amending or Obtaining Relief from the ESI Production**

19 **Protocol:**

20 a. Amendment: The Parties may, by mutual agreement, develop and employ
21 production protocols which vary from those set forth above. In such an instance,
22 they shall revise this Stipulation and submit the new agreement for the Court's
23 approval.

24 b. Relief: Any Party may request relief from any obligation set forth in this
25 Stipulation. All such requests shall be in writing and submitted to the Court for
26 consideration, with a copy of the request served to all Parties via email and U.S.
27 mail. Any Party may oppose any request for relief by submitting a written

opposition to the Court, with a copy of the opposition served to all Parties via email and U.S. mail, within five (5) days of service of the request for relief.

28. **Cost Shifting:** Each Party expressly reserves the right to petition the Court to shift the cost of the production of ESI to the requesting Party.

DATED this 13th day of August 2018.

HOLLAND & HART LLP

By: /s/ J. Stephen Peek, Esq.
J. Stephen Peek, Esq. (NV 1758)
Robert J. Cassity, Esq. (NV 9779)\
9555 Hillwood Drive, 2nd Floor
Las Vegas, NV 89134

Attorneys for Defendants Aruze Gaming America, Inc. and Kazuo Okada

Jeffrey S. Love, Esq. (*pro hac vice*)
Klarquist Sparkman, LLP
121 SW Salmon St., Ste. 1600
Portland, OR 97204

Attorneys for Defendant Aruze Gaming America, Inc.

EVANS FEARS & SCHUTTERT LLP

By: /s/Jay J. Schuttert, Esq.
Jay J. Schuttert, Esq. (NV 8656)
David W. Gutke, Esq. (NV 9820)
2300 West Sahara Avenue, Suite 900
Las Vegas, NV 89102

Andrew Z. Weaver, Esq. (*pro hac vice*)
Polsinelli PC
1000 Louisiana Street, 53rd Floor
Houston, TX 77002

*Attorneys for Plaintiff
Universal Entertainment Corporation*

IT IS SO ORDERED.

ORDER

UNITED STATES DISTRICT COURT JUDGE/
UNITED STATES MAGISTRATE JUDGE

DATED:

CASE NO.: 2:18-cv-00585-RFB-GWF